

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

KANONIE N. HALL,)	CASE NO. 1:09 CV 1088
)	
Petitioner,)	JUDGE DAN AARON POLSTER
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
CLEVELAND MUNICIPAL COURT,)	<u>AND ORDER</u>
)	
Respondent.)	

On May 12, 2009, petitioner pro se Kanonie N. Hall filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. Hall seeks to challenge his December 2008 conviction, pursuant to guilty plea, for drug possession. For the reasons stated below, the petition is denied and this action is dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

It is evident on the face of the petition that petitioner has yet to appeal his conviction, an avenue still available to him

under Ohio Appellate Rule 5. His petition is thus premature.

Accordingly, the request to proceed in forma pauperis is granted, the petition is denied, and this case is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

/s/Dan Aaron Polster 6/10/09
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE